

**DETAILED ACTION**

1. This is a non-final Office action on the merits. Currently, claims 1-9 are pending.

**Specification**

2. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter. For example, the following items are not understood:

(A) *where a tenant exists that is common to both the first section and the second section, an output elements group obtained by a tenant of the second section is taken as an input elements group of a tenant that is common with the first section, and lower rank housings can be nested hierarchically to provide tenants for each section of the three sectional housing (see paragraph 21; claim 1)*

(B) *when there is a lower rank housing forming tenants in the first section and the second section of an upper rank three sectional housing commonly, in accordance with the operation sequence of the upper rank sectional housing information is passed to the lower rank housing being the tenant of that second section, and the operation of that upper rank three sectional housing continues using the result of the operation of the lower rank housing as information of the concerning tenant of the first section of the upper rank three sectional housing (see paragraph 22; claim 1)*

(C) Paragraphs 23-24, 27, 30-34 (Summary of Invention)

(D) Paragraphs 63-66; 69-70; 73-81 (Detailed Description)

The items mentioned above are not an exhaustive list. The disclosure as a whole precludes a reasonable search of the prior art because it cannot be understood by the Examiner.

Applicant is required to submit an amendment which clarifies the disclosure so that the examiner may make a proper comparison of the invention with the prior art.

Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed).

3. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms, which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: Paragraphs 21-35 (see lists above)

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### **Claim Objections**

5. Claim 8 is objected to under 37 CFR 1.75(c) as being in improper form because it is in the form of a multiple dependent claim. See MPEP § 608.01(n).

6. Claim 8 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the

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claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. These claims are directed to a computer program for performing the steps of claims 1-6. These claims are improper because they fail the “infringement test” (see MPEP 608.01(n), Section III). Applying the infringement test, what is needed to infringe claim 8 is, for example a computer program that if and when executed would cause a computer to do the steps recited in claim 1. However, such a computer program would not infringe the method steps of claim 1 since the computer program itself never performs any of the active steps required by the method of claim 1. In other words, mere possession of such a computer program would infringe claim 8, but would not infringe claim 1. Thus, claim 8 is an improper dependent claim.

### **Claim Rejections - 35 USC § 101**

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

For a claimed invention to be statutory, the claimed invention must produce a useful, tangible and concrete result. An invention which is eligible for patenting under 35 U.S.C 101, is in the “useful arts” when it is a machine, manufacture, process or composition of matter, which produces a useful, concrete and tangible result. The fundamental test for patent eligibility is thus to determine whether the claimed invention produces a useful tangible and concrete result. See

AT&T v. Excel Communications Inc., 172 F.3d at 1358, 50 USPQ 2d at 1452 and State Street Bank & Trust Co. v. Signature Financial Group, Inc., 149 F.3d at 1373, 47 USPQ 2d at 1601 (Fed. Cir. 1998).

The test for practical application as applied by the examiner involves determining whether the claimed invention produces a useful, tangible, and concrete result. Utility may be evidenced by a specific (particular to a subject matter), substantial (real-world), and credible (logical) final result. Tangibility may be evidenced by a non-abstract real-world result. Concreteness may be evidenced by repeatability with substantially the same result.

Claims 1 and 9 do not produce a useful, concrete, and tangible result. Claims 1 and 9 are directed to *treating a three sectional housing as one processing unit*, which is an abstract idea. Claims 1 and 9 go on to describe the structure of the three sectional housing and the interactions between different sections and other housings. However, the claimed invention fails to produce *any* result, let alone one that is useful, concrete, and tangible. Claims 1 and 9 are merely abstract ideas because they are directed to examining the relationships and interactions of items in a grid. The claims appear to be directed to an algorithm for constructing a grid, but it is not clear that any result is accomplished. Furthermore, claim 1 is a method claim that fails to positively recite any steps to the method. Therefore, nothing is being accomplished by following the “steps” of the “method.”

The dependent claims 2-8 are also rejected because they fail to add substantial limitations to remedy the deficiencies of the claims that they depend from.

Claim 8 recites functional descriptive material (i.e. computer program) that does not impart functionality when employed as a computer component because the functional descriptive material is not tangibly embodied on a computer-readable medium. (See MPEP 2106.01(I)).

9. Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a purported asserted utility or a well established utility. The applicant appears to be describing a concept where the mathematical relationships between items are examined in a grid.

#### **Claim Rejections - 35 USC § 112**

10. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

11. Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Specifically, since the claimed invention is not supported by either a purported asserted utility or a well established utility for the reasons set forth above in paragraph 9, one skilled in the art clearly would not know how to use the claimed invention.

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

The claims recite numerous limitations that lack antecedent basis. For example, "the phenomena" in claim 1, "each individual tenant" in claim 1. Examiner requests that Applicant carefully check the claims for antecedent basis.

Claims 1-8 are also indefinite because they fail to recite positive steps. The claim language does not make clear what the applicant regards as his/her invention. For example, claim 1 consists of a method without including any steps involved in the method. Claims 2, 4, and 7 use the term "can" (e.g. information can be passed, housing can nest, tenant can be registered). These claims are indefinite because it is not clear from this language whether these limitations are part of applicant's invention.

The dependent claims are also rejected because they fail to add substantial limitations to remedy the deficiencies of the claims that they depend from.

14. Because claims 1-9 are so indefinite, no art rejection is warranted as substantial guesswork would be involved in determining the scope and content of these claims. *See In re Steele*, 305 F.2d 859, 134 USPQ 292 (CCPA 1962); *Ex parte Brummer*, 12 USPQ 2d, 1653,

1655 (BdPatApp&Int 1989); *see also In re Wilson*, 424 F.2d 1382, 165 USPQ 494 (CCPA 1970). Prior art pertinent to the disclosed invention is nevertheless cited and applicants are reminded they must consider all cited art under Rule 111(c) when amending the claims to conform with 35 U.S.C. 112.

### **Prior Art**

15. As mentioned above, Examiner's search for prior art has been precluded by applicant's incomprehensible specification and use of terms inconsistent with those normally used in the art. The following prior art references are the Examiner's best guess as to related art that may be pertinent to applicant's disclosure, specifically the use of grids or matrices to display cause and effect relationships.

Japanese publication number 2001-357190 to Higashihara et al, directed to planning, designing, structuring, maintenance, and operation of BSM.

U.S. patent number 6,351,680 to Ali et al, directed to quality function deployment.

U.S. patent number 7,219,068 to Zelek et al, directed to product optimization.

U.S. pre-grant publication number 2004/0068429 to MacDonald, directed to strategic organization plan development and information presentation.

***Conclusion***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil R. Kardos whose telephone number is (571) 270-3443. The examiner can normally be reached on Monday through Friday from 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Van Doren can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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